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OFFICE OF PETITIONS

ON PETITION

In re Application of
Dar-Fu Tai et al.
Application No. 10/690,600
Filed: October 23, 2003
Attorney Docket No: MR957-1411

This is a decision on the petition filed October 17, 2006, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513, which is treated under 37 CFR 1.181.

The petition is **GRANTED**.

This application became abandoned on December 29, 2005, for failure to file a timely response to the Office Communication mailed November 28, 2005, which set a one (1) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed August 18, 2006. Petitioner asserts that the Office Communication was never received.

The file record discloses that the Office Communication was mailed to the address of record which is the same address used on all correspondences from the USPTO including the Notice of Abandonment. Petitioner has provided a copy of the docket report, wherein receipt of the Office Communication mailed November 28, 2005 would have been filed, had it been received. To further show that the Office Communication mailed November 28, 2005 was not received, petitioner also explains that after searching the file jacket it was concluded that no correspondence was received for this matter from the USPTO,

In that the statement from the petitioner and the exhibit from the docket record for the instant matter show no entry indicating receipt of the Office Communication mailed November 28, 2005, it is apparent that it was not received. The evidence submitted corroborates non-receipt of the Office Communication.

In view of the facts set forth in the petition, it is concluded that the Office Communication mailed November 28, 2005 was never received at the address of record. Accordingly, the holding of abandonment is withdrawn and no petition fee is due.

This matter is being referred to Technology Center 1631 for a re-mailing of the Office Communication originally mailed November 28, 2005 and for a restarting of the period for response.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

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